

**Shall an ordinance entitled “2010 Amendments to the Shoreland Zoning Ordinance Regarding Expansion of Non-Conforming Structures” be enacted?**

The Town of Harpswell Shoreland Zoning Ordinance shall be amended as follows: (deletions are ~~struck out~~ additions are underlined):

**Section 10.3. Non-Conforming Structures**

**10.3.1. Expansions.** A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure. For the purposes of this Ordinance, an increase to the non-conformity of the structure shall mean:

- any expansion towards a water body, tributary stream, wetland, or property line that decreases the shortest existing non-conforming setback distance from the, water body, tributary stream, wetland, or property line; or
- any expansion that would cause the structure to exceed the lot coverage requirements of Section 15.2.4; or
- any expansion that would cause the structure to exceed the height limits of Section 15.2.2.

The shortest existing non-conforming setback distance from a water body, tributary stream, wetland, or a property line may not be measured from an existing area used mainly for access to a structure, such as a small patio, terrace, landing, or small set of stairs.

***Citizen’s Note:** It should be understood that small patios, terraces, landings, or small sets of stairs within minimum setbacks do not change the setback of the adjacent structure and cannot be used to justify expansion of any other part of the structure into that setback.*

**10.3.1.1. Further Limitations.** If any portion of a structure in existence as of January 1, 1989 is less than the required setback from the maximum high water line of a water body, tributary stream, upland edge of a wetland, or from a property line, that portion of the structure shall not be expanded in floor area or volume, by 30% or more, during the lifetime of the structure. If a replacement structure conforms with the requirements of Section 10.3.2.2 and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area and volume since that date.

**10.3.1.2.** Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Code Enforcement Officer, basing the decision on the criteria specified in Section 10.3.2.1, Relocation. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 10.3.1.1, Further Limitations, and the foundation ~~does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), is not more than 5 feet in height, as defined herein,~~ it shall not be considered to be an expansion of the structure. Any

**Comment [MSOffice1]:** Foundation is defined in the existing Definitions Addendum to include basements. So, they would be included in any calculation of floor area or volume.

portion of a foundation proposed to exceed 5 feet in height, as defined herein, shall have the foundation floor area and volume included in the 30% calculation. Notwithstanding any other provision of this ordinance or the Definitions Addendum to the contrary, for the purpose of this subsection only, height shall be defined as the vertical distance of the foundation wall of the structure measured from the highest point of the foundation to the lowest point of the foundation anywhere within the interior walls of the foundation.